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Africa -- The Problems of New States: A Panel

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However, the rule is one state, one vote. The equality of states is a fiction. This is being met somewhat in the United Nations by the system of block voting which reduces the number of entities with which one must negotiate. The concept of equality of states will come under increasing attack.

COMMENTS BY WILLIAM B. HARVEY

University of Michigan Law School

There exist in Africa today diversities impeding the formation of large groupings. One of these is language—mainly the split between English and French. Another is the heritage of the British common law and of the French civil law with their different terminological and conceptual resources.

There is also the inheritance from the colonial administration of the different approaches of that administration. For the French and the Portuguese, as the African progressed it was contemplated that he would progress toward being a Frenchman or a Portuguese. These territories were really regarded as overseas provinces. The French thus started undermining (not in an invidious sense) the tribal structure. The tribe does not seem to be a significant factor in the new states of the French Community. The British employed the technique of indirect rule. Here colonial administrators were put in at the top, but the tribes and the indigenous institutions were left at the grass roots. The danger of indirect rule is distortion. In Ghana, for example, the British saw in the Chiefs powers that they did not have. The Chiefs tried to assume these powers from the people. Remaining loyalty to the tribe is diluted but has still fostered separatist tendencies.

There is a question whether race, in its own right, is an important problem. The regions of great racial tensions are where the whites have formed an attachment to land, as in Kenya, Southern Rhodesia, and the Union of South Africa. In West Africa I have noted that the term "white man" often means merely non-native. American Negroes are thus regarded there as "white men." There is very little consequence of race here.

There is diversity of the sources of law in Africa. Consider British Africa, for example. At the foundation is customary law. There may be a question of whether this is really law. We need not debate that here. There are patterns of order which prevail in the tribal structure. Moslem law is applied in certain areas. Another element is English common law and equity. Then there are British statutes, especially those in force on a certain given date, and also there are local enactments, including those of the new parliaments.

There is also a diversity in the amount of trained personnel that exists. In the Congo at independence there were only 16 university graduates—none lawyers. In Nigeria and Ghana there are many competent lawyers. Here the young went abroad to study and many studied law. Unfor-

tunately these university-trained personnel are not always available to the government. In certain places the politicians are antagonistic to the Bar. The Bar is regarded as full of dissidents.

If Africa is going to develop effective legal and governmental institutions, they must be built on the significant values in African societies. Advantage must be taken of values perceptions which cross over national boundaries. The type of research now needed is understanding of traditional structures and values and how these relate to national status and new international groupings. This is a job for the Africans, but outsiders with the interest and time for such research can also contribute.

COMMENTS BY STANLEY D. METZGER

Georgetown University Law School

Dorothy Parker would have said, I think, had she heard our speakers today, that the problems of the new African states are just like the problems of other long asleep, newly-emerging, and underdeveloped countries, only more so. Very low literacy, very low per capita income, fragmentation of tribal organization, over eight hundred different languages, and the overriding question of race intensify and complicate beyond accurate measurement the so-called "normal" problems of emergent states: emergent nationalism, and the intense desire for quickly increased well-being which we see in Asia, Latin America, and even in many countries which in general are more developed, such as Italy.

The desire of Africans in the new states, sub-Sahara black Africa, for freedom from colonialism or any form of outside domination; for racial equality; for non-alignment in any great-Power struggle; for rapid economic development; for increased industrialization; for more education and opportunities for advancement and service on the part of those who are educated—these are aspirations and needs which are common to the peoples of India, Indonesia, Bolivia, and scores of others.

In our era of nation-states, the nation has supplied the form and substance of social organization which has succeeded, imperfectly to say the most, in galvanizing social and individual energies to achieve such objectives—to release and channel energies within a system of relative order in which conflicts of views and interests may be transformed with a minimum of internal violence.

All nations, even those which look to be most homogeneous, are the product of accidents and non-calculation stretching over the centuries—their borders, their populations, their cultures are made up of an incredible amalgam of diverse strands which was in large part unplanned. The difficulties in creating the nations known as England, Germany, Italy, and the United States fill the history books of the past several centuries.

Africa will have all these difficulties and perhaps more to boot. Originally carved up without regard to tribal or other reference points by